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SIPDIS

"JUSTICE FOR OIA AND AFMLS
AND, TREASURY FOR FINCEN" AND "EB/ESC/TFS"

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SUBJECT: 2005-2006 TANZANIA'S INCSR PART II: FINANCIAL
CRIMES AND MONEY LAUNDERING

REF: STATE 210691

1. SUMMARY: In 2005, the Government of Tanzania (GOT) delayed building the legal foundation for an effective anti-money laundering regime. While the anti-money laundering (AML) bill was finalized and presented to the Cabinet in May 2005, the Cabinet did not approve and table the draft AML bill in Parliament for discussion. From May 2005 to date, progress has stalled as the national Multi-disciplinary Committee on Anti-Money Laundering waits for a new parliament - elected on December 14, 2005 and due to open on December 30. The Committee remains optimistic that the AML bill will be tabled in Parliament in February 2006 and would like to organize a seminar to sensitize the newly elected Parliament to money laundering concerns. In 2005, the GOT reported no investigations, arrests or prosecutions relating to anti-money laundering or terrorist financing. Coupled with stalled progress on enacting needed legislation, the capacity of Tanzania's law enforcement remains limited in terms of combating money laundering and other financial crimes. In 2005, several Tanzanian law enforcement officers did participate in training programs on combating terrorist financing and money laundering. END SUMMARY.

I. GENERAL ASSESSMENT:

2. Tanzania is not considered an important regional financial center or offshore financial center. Tanzania is, however, vulnerable to money laundering because of the weaknesses of its financial institutions and law enforcement capabilities. A weak financial sector and an under-trained, under-funded law enforcement apparatus make such crimes difficult to track and prosecute. In 2005, according to both the Ministry of Finance (MOF) and the Bank of Tanzania (BOT), there were no reported cases of suspicious transactions or arrests relating to money laundering.

3. Officials have noted that some real estate and used car businesses are used for money laundering purposes and have explained that tax evasion constitutes an important source of funds for money laundering schemes. Government officials have also cited the emerging casino industry as an area of concern for money laundering. Money laundering is more likely to occur in the informal non-bank financial sector, as the formal sector is still relatively underdeveloped.

4. Funds laundered through Bureau de Changes and other front companies through the practice of hawala pose concern, especially on the less regulated island of Zanzibar. Officials indicate that money laundering schemes in Zanzibar generally take the form of foreign investment in the tourist industry and bulk cash smuggling. The most likely sources of illicit funds include Asia and the Middle East, and to a lesser extent Europe. Such transactions rarely include significant amounts of U.S. currency.

II. LEGAL FRAMEWORK

5. The 1991 Proceeds of Crime Act criminalizes narcotics-related money laundering. However, the Act does not adequately define money laundering and has only been used to prosecute corruption cases. The law obliges financial institutions to maintain records of financial transactions exceeding 100,000 shillings (approximately 90 USD) for a period of 10 years. Financial institution employees are legally protected from liability stemming from reporting suspicious transactions and current law does not hold financial institutions responsible if they are found to have used laundered money.

6. If a bank or financial institution has reasonable grounds to believe that a transaction relates to money laundering, it may communicate this information to law enforcement under guidance from the BOT, although such reporting is not required by law. The BOT has issued regulations under Circular Number 8 of the Proceeds of Crime Act, requiring financial institutions to file suspicious transaction reports (STRs), but this administrative requirement is not being

enforced and no mechanism exists for receiving and analyzing the STRs.

17. In November 2002, Parliament approved the Prevention of Terrorism Act, which the President signed into law on 14 December 2002. The Act criminalizes terrorist financing and enables the government to seize assets associated with terrorist groups. The Act also requires all financial institutions to inform the government each quarter of whether any of their assets or transactions may be associated with a terrorist group. However, the implementing regulations for the Act have not been finalized and the Act has never been applied.

18. Since 1998, the Government of Tanzania has been working with the U.S. Treasury to develop an effective anti-money laundering regime. From 2003-2005, the GOT developed a draft AML law to build a foundation for addressing money laundering issues. Provisions of the AML legislation include alternative remittance systems such as hawala and also provide for the creation of a financial intelligence unit (FIU) that would collect mandatory suspicious transaction reporting from banks and financial institutions. The AML legislation would empower the FIU to share information with other FIUs and foreign law enforcement agencies.

19. In 2005, the GOT delayed tabling and passing the AML legislation in Parliament. The national Multi-disciplinary Committee, established through the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), finalized the draft AML bill from January - May 2005, gaining additional stakeholder input. In May 2005, the Committee presented the AML legislation to the Cabinet for approval. According to officials from the MOF and the BOT, the Cabinet did not approve and send the AML bill to Parliament due to time constraints and focus on the 2005 national elections. Representatives from the Multi-disciplinary Committee remain hopeful that the legislation will be tabled in Parliament as early as February 2006.

110. In international fora, the GOT ratified the United Nations Convention on Transnational Organized Crime (also known as the Palermo Convention), in 2005. The GOT had signed the Convention in 2000 but delayed ratification due to concerns from the Ministry of Home Affairs, which currently has the lead on investigating financial crimes. Tanzania is also a party to the UN International Convention for the Suppression of the Financing of Terrorism, the UN Convention against Corruption and the UN International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic substances.

III. FINANCIAL SECTOR

11. The Bank of Tanzania has the central role in terms of supervising banks and financial institutions for compliance with anti-money laundering and counter-terrorist financing laws and regulations. There is no statutory threshold for large currency transactions. If the institution has reasonable grounds to believe that a transaction relates to money laundering, the institution should report this information according to Circular Number 8 but there is not mechanism in place to enforce reporting.

112. Money laundering controls are not currently applied to non-banking financial institutions, such as cash couriers, casinos, Bureau de Changes etc. The draft AML bill includes the expansion of money laundering controls to cover such institutions. Currently, the BOT supervises Bureau de Changes through annual audits and inspections while the National Gaming Authority supervises casinos and other types of games involving large sums of money including lotto. There are no legal requirements for non-bank financial institutions to report suspicious transactions.

113. There are currently no cross border currency reporting requirements, including those that apply to cash couriers. The Proceeds of Crime Act does characterize cash smuggling as a "predicate offense." The draft AML bill includes strengthened provisions to criminalize cash smuggling in and out of Tanzania.

IV. United Nations 1267 COMPLIANCE

115. The BOT consistently circulates the names of individuals and entities that have been included on the UNSCR 1267 Sanctions Committee's list to its financial institutions for searches of affiliated property and assets. To date, no assets have been frozen under this provision although in 2004, the GOT did take action against one charitable organization on the list by closing its offices and deporting its foreign directors. It remains unclear whether Tanzania has the investigative capacity to identify and seize related assets.

V. Regional/International Cooperation

16. The GOT has cooperated the USG in investigating and combating terrorism, consistently exchanging counterterrorism information with U.S. authorities. There are no specific laws in place allowing exchange of records with the United States on narcotics and narcotics related money laundering. As noted above, Tanzania is party to those international conventions related to money laundering and terrorist financing.

17. Regionally, Tanzania is a member of ESAAMLAG, which was founded in 1999. Since its inception, Tanzania has played a leading role in the operation of this FATF-style regional body, detailing personnel to the ESAAMLAG Secretariat and providing donated office space in Dar es Salaam for the ESAAMLAG headquarters. In 2005 Charles Lenga Lenga, ESAAMLAG's current Executive Secretary of Tanzania, decided to step down. ESAAMLAG is now seeking a suitable candidate for Lenga Lenga's replacement in January 2006.
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